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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,454	11/21/2003	Joe W. Almcida	22714.00	8052
37833	7590	10/09/2007		
LITMAN LAW OFFICES, LTD. P.O. BOX 15035 CRYSTAL CITY STATION ARLINGTON, VA 22215			EXAMINER LOFTUS, ANN E	
			ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/717,454	Applicant(s) ALMEIDA, JOE W.	
	Examiner Ann Loftus	Art Unit 3694	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/21/03</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claim 1, the term "low," as in low interest rate, is a relative term which renders the claim indefinite. How low is low enough? The term "low" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Further as to claim 1, the phrase "option term" can mean the term of the loan, where common options include 15 or 30 years. The term could also mean the period during which the option can be exercised. The metes and bounds of the claim are not clear, thus the claim is rejected.

As to claim 3, the concept of terminating an option when it ends is unclear. Isn't it inherently terminated when its term ends? The metes and bounds of the claim are not clear, thus the claim is rejected.

The remaining claims are rejected as dependent on rejected claims.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Woodward in view of US Patent 5870721 filed 10/15/96 by Norris. Woodward refers to a paper by Susan Woodward titled "Consumer Confusion in the Mortgage Market", published by Sand Hill Econometrics on 7/14/2003. An electronic version is available at http://www.sandhillecon.com/pdf/consumer_confusion.pdf as of 9/29/07. As evidence that the paper was available to peers in 2003, a secondary article is provided that references the release of the Woodward paper in July of 2003. The latter is titled "Education, Race, Sex Affect Mortgage Brokers Fee," by Kenneth Harney, published 7/20/03, by sfgate.com, which is affiliated with the San Francisco Chronicle.

As to claim 1, Woodward on page 6 teaches a rate sheet for 30 year fixed rate loans at various interest rates. The explanation follows onto page 7-8. The desired option term is the 15-60 day lock period across the top of the chart (see "option term" under 112 rejections above). The sheet shown is for borrowing \$100,000, which is the desired principal amount. The premium is the difference between the amounts in the table and \$100,000. For a higher interest rate, the premium is earned by the broker, and for a lower interest rate, the premium is paid by the broker. Note that the premium depends upon the option term. On page 8, Woodward teaches adjustments to the

premium for other principal amounts. Thus Woodward teaches offering options for mortgages at a fixed low interest rate for a premium dependent upon a desired principal amount and a desired option term.

Woodward teaches providing a lock based on an application fee in page 7.

Woodward teaches different lock periods available in the rate chart on page 6. A person of ordinary skill in the art at the time of the invention would understand that the customer is selecting an option term from the choices of 15, 30, 45, or 60 days.

Woodward does not explicitly teach receiving a mortgage application from a customer for a customer selected principal amount and a customer selected option term. Norris teaches receiving an application from a customer in col 4 lines 1-5. Norris teaches in col 4 lines 35-50 the customer selecting the amount and term of the loan. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine receiving an application with customer selected principal amounts and option terms in order to have the application document the agreement between the parties as to the amount, rate, and option term. It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Woodward to add receiving a mortgage application from a customer for a customer selected principal amount and a customer selected option term in order to have the application document the agreement between the parties as to the amount, rate, and option term.

Woodward teaches determining the customer premium for the customer selected principal amount and the customer selected option term in the rate chart and explanation, pages 6-8.

Woodward teaches extending an option to the customer for the customer selected principal amount and the customer selected option term for the customer premium in the rate chart and explanation, pages 6-8. A person of ordinary skill in the art at the time of the invention would understand from the explanation that the chart would be used as a basis for offering mortgages, which would inherently extend options to the customer.

Woodward teaches receiving payment of the premium on page 2.

Woodward teaches extending a mortgage at the fixed low interest rate when the customer exercises the option within the customer option term in the rate chart and explanation, pages 6-8. In this passage, Woodward teaches closing, which inherently includes extending a mortgage.

As to claim 7, Woodward teaches publishing a table of the premiums for the fixed low interest rate, the desired principal amounts and the desired option terms in the rate chart and explanation, pages 6-8.

5. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Woodward and Norris as applied to claim 1 above, and further in view of US Patent 5797133 filed 2/3/97 by Jones and Goetz.

As to claim 2, Jones teaches in col 3 lines 35-40 prequalifying the customer. It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Woodward to add prequalifying the customer before the customer selected option term begins because pre-qualifying the customer involves determining

credit risk, which is done before the interest rate is set, which is done before the option period for that interest rate is determined.

6. Claims 3 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Woodward and Norris as applied to claim 1 above, and further in view of Official Notice.

As to claim 3, the Woodward Norris combination does not explicitly teach terminating an option when the customer fails to exercise the option before the customer selected option term ends. Official Notice is taken that it is old and well-known for mortgage customers to let rate locks expire. It would have been obvious to a person of ordinary skill in the art to modify the Woodward Norris combination to add terminating an option when the customer fails to exercise the option before the customer selected option term ends in order to enable pressing the customer to hurry their decision.

As to claim 6, on page 16 Woodward teaches premiums related to the principal amount. Woodward does not teach this relationship as a percentage. Official Notice is taken that it is old and well-known to set prices as a percentage of another factor. It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the Woodward Norris combination to add setting a premium based on a percentage of the customer desired principal amount in order to have a repeatable and non-discriminatory way to set prices.

7. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Woodward and Norris as applied to claim 1 above, and further in view of US Patent Application 20050240516 filed 6/13/04 (provisional 6/13/03) by Crocker.

As to claims 4 and 5, the Woodward Norris combination does not explicitly teach options for residential and commercial property. Crocker teaches options for residential property in the abstract and commercial property in paragraph 17 page 2. It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Woodward Norris combination to add options for residential and commercial property in order to appeal to customers in the two largest segments of the mortgage market.

Conclusion


8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: US Patent 4876648 filed 1/12/88 by Lloyd. Lloyd teaches a mortgage application, fixed interest rate, principal amount and option term (loan term) in col 30 lines 20-35.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ann Loftus whose telephone number is 571-272-7342. The examiner can normally be reached on M-F 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AL
9/27/07


ELLA COLBERT
PRIMARY EXAMINER